

## Council of Governors

8<sup>th</sup> March, 2023

<b>Report Title:</b>	<b>Board Proceedings report to Council</b>
<b>Executive/NED Lead:</b>	Steve Parsons, Interim Director of Governance
<b>Report author(s):</b>	Steve Parsons, Interim Director of Governance
<b>Previously considered by:</b>	N/A

Approval
  Discussion
  Information
  Assurance

<b>Executive summary</b>		
<p>One of Council's statutory responsibilities is to hold the Board to account, through the Non-Executive Directors, for their decisions. This does not mean that Council is authorised to change or re-make the decisions; but that it can call the Non-Executive Directors to account for them, through explanation and discussion.</p> <p>Attached is a summary of the matters discussed and decisions taken at the January and March public meetings of the Board of Directors, to assist Council in discharging this duty.</p>		
<b>Action requested of the Council</b>		
<p>The Council is invited to-</p> <ol style="list-style-type: none"> <li>i. Note the proceedings and decisions of the Board in the public meetings held in January and March 2023;</li> <li>ii. Hold the Board to account for the decisions through the Non-Executive Directors.</li> </ol>		
<b>Link to Strategic Objectives (SO)</b>		<b>Please tick</b>
SO1	Keep people in control of their health	<input checked="" type="checkbox"/>
SO2	Lead the integration of care	<input checked="" type="checkbox"/>
SO3	Develop our centres of excellence	<input checked="" type="checkbox"/>
SO4	Support and develop our staff	<input checked="" type="checkbox"/>
SO5	Drive technology enabled care	<input checked="" type="checkbox"/>
<b>Risk Implications for the Trust</b> <i>(including any clinical and financial consequences)</i>		N/A
<b>Trust Risk Appetite</b>		The Board has a cautious risk appetite when it comes to compliance and regulatory issues. Where the laws, regulations and standards are about the delivery of safe, high quality care, or the health and safety of the staff and public, it will make every effort to meet regulator expectations and comply with them and will only challenge them if there is strong evidence or argument to do so and the gain will outweigh the adverse consequences.
<b>Legal and regulatory implications</b> <i>(including links to CQC outcomes, Monitor, inspections, audits, etc.)</i>		Failure to be able to show that the Council is discharging its statutory duty to hold the Board to account through the Non-Executive Directors may

	have negative impacts on CQC judgements and on compliance with the Provider Licence.
<b>Financial Implications</b>	N/A
<b>Equality and Diversity</b>	N/A

## **Board Proceedings report to Council**

### **Background**

One of the statutory responsibilities of the Council of Governors is to hold the Non-Executive Directors, both individually and collectively, to account for the performance of the Board.<sup>1</sup> How effectively Council has undertaken this duty is something that may be taken into account by the Care Quality Commission in reaching their judgements on the “Is [the Trust] Well-Led?” strand of inspection.

This does not imply that Council can change or re-take decisions made by the Board. They are matters for which the Board, and not the Council, are legally responsible; and the Council is not empowered to interfere with them. The expectation and authority for Council is to hold to account for those decisions, in a public forum as Council will usually meet in public, through asking for explanations of the reasons that led the Board to reach the decisions that it did; and discussion of why alternatives were considered to be less appropriate in the circumstances that the Board found.

### **Report of Board proceedings**

Appended to this paper is a summary of the proceedings of the Board at the public sessions held in January and March 2023. This is provided to support Council in understanding the matters considered and decisions taken by the Board, and thereby holding the Non-Executive Directors to account for them; but it does not act as a substitute for the formal minutes of the proceedings.

Governors have access to the papers for the public meetings of the Board, which are published on the Trust website [and are available here](#). Governors also have the opportunity to attend and observe public meetings of the Board; and are encouraged to attend at least one public session of the Board in each year, to support themselves in understanding how the Board works as part of the discharge of their responsibilities.

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<sup>1</sup> Section 151(4), Health and Social Care Act 2012.

### January 2023

Issue	Summary	Actions agreed	Additional notes
Patient Experience story	The Board received a patient story, in person, in respect of their case from the Maternity and Bereavement teams.	The Board noted that overall there had been good experience, although there were areas of learning.	
Chair's update	The Chair provided an update on key matters	On behalf of the Board, the Chair and CEO had thanked all staff for their commitment during the difficult weeks leading into the meeting.	
		The Board welcomed that the Trust had received the Silver Award in the Armed Forces Covenant Pledge, and was working towards the Gold Award.	
		The new artwork arrangements within the Trust were noted.	
		The Board welcomed that two Consultants had been appointed / elected to national positions.	
CEO Update	The Chief Executive provided an update on key operational matters.	The Board noted the challenges that were being faced across health and social care, and the steps the Trust was taking to mitigate the risk.	
		The Board were updated on the work of the Integrated Care Board and the Integrated Care Partnership, which were both continuing to establish themselves.	

Issue	Summary	Actions agreed	Additional notes
Quality and Patient Safety	The Board received the update from the Quality and Patient Safety Committee, and the relevant part of the Integrated Performance Report	The Board noted the matters alerted by the Committee, and the assurance available as to how the risks were being managed and mitigated.	
CQC post-inspection letter	The Board received the initial post-inspection letter from the CQC following the inspection of some services at Colchester Hospital, together with the initial steps taken.	The Board welcomed the initial steps that were being taken, and the assurance available regarding the particular points raised in the letter.	<b>Note-</b> the final inspection report was considered at the Board meeting in March 2023.
		The Board noted that, in accordance with the usual procedures, the final report and action plan would come to the Board for approval in March 2023.	
“Reading the Signs”- East Kent Maternity review report	The Board considered the findings of the review, and a paper outlining the work being undertaken, within the Trust, that related to the review.	The Board was concerned that the review had continued to identify themes that had been evident in reviews since the Kirkup review into Morecambe Bay FT, and were likely to be reprised in further reports such as Shrewsbury and Telford Trust.	
		The Board welcomed the steps that the Trust was taking to review processes in light of the learning from the review.	
Maternity Incentives scheme	The Board considered the submission to NHS Resolution for this item, presented by the maternity team.	The Board regretted that three standards were reported as not met; but noted that all of them had relatively minor non-compliances and that processes were being improved to mitigate against the future risk.	
		The Board noted the significant management and mitigations in place to ensure the safety of babies and parents.	

Issue	Summary	Actions agreed	Additional notes
Quality Strategy	The Board considered the Quality Strategy for the Trust, which had been considered in detail at the Quality and Patient Safety Committee.	The Board approved the Quality Strategy.	
Addressing Health Inequalities Strategy	The Board considered the Strategy, which had been considered in detail at the Quality and Patient Safety Committee.	The Board approved the Health Inequalities Strategy, and encouraged it to be introduced at pace.	
ESNEFT as an Anchor Organisation	The Board were updated on the work of the Trust in this area.	The Board welcomed the positive assurance available of the Trust's engagement and impact in this area.	
Finance and Performance Updates	The Board received the report from the Performance Assurance Committee, and the related parts of the Integrated Performance Report.	The Board noted the matters drawn to its attention by the Performance Assurance Committee.	
		The Board noted operational performance as reported, and the key mitigations in place to support delivery.	
		The Board welcomed the continued positive performance against the agreed financial plan for the year.	
		The Board noted the national intention, for 2023-2024, to move back towards a system similar to 'payment by results' which was in place prior to the COVID-19 driven changes.	
People and Organisational Development	The Board received the report of the People and Organisational Development Committee, and the relevant parts of the Integrated Performance Report.	The Board noted the matters drawn to its attention by the Committee; particularly the 'deep dive' on staff experience and the annual Freedom to Speak Up Guardian's report.	<b>Note-</b> the Freedom to Speak Up Guardian's report was presented to Board in March 2023.

Issue	Summary	Actions agreed	Additional notes
		The Board welcomed the work of staff during the 'reset' fortnight, and their contributions to the period.	
Audit and Risk Committee	The Board received the update from the Committee's recent meeting.	The Board noted the issues drawn to its attention by the Committee.	

### March 2023

Issue	Summary	Actions agreed	Additional notes
Patient Experience story	The Board received a patient story from a patient, via video, on the maternity treatment received by a trans-gender couple.	The Board noted the positive aspects of the patient's experience, which contrasted with the experience reported in the patient video a few months earlier.	
		The Board received assurance that the information was being shared with staff for learning and improvement. This also fed into a number of wider pieces of work.	
Chair's update	The Chair provided an update on key matters	The Board noted the retirement, at the end of March, of a number of colleagues who attended the Board; particularly Mr Fenton as Director of Estates and Facilities.	
		The Board welcomed Fiona Ryder to her first Board meeting as a NED, following her start in office on 1 <sup>st</sup> March 2023.	
		A number of other engagements with staff and patients were drawn to the Board's attention.	
CEO update	The Chief Executive updated the Board on key operational issues.	The Board noted the significant challenges caused by the previous industrial action and that being planned; the Trust was taking the necessary steps to plan to minimise the risks from this event, but there remained some risk to patient safety. It was likely that days before and after the planned action would also be affected.	



Issue	Summary	Actions agreed	Additional notes
		The updates on the work of the Integrated Care Board and the Integrated Care Partnership were noted. The Board emphasised the need for the ICB to ensure patient care and safety received appropriate focus.	
Quality and Patient Safety	The Board received the update from the Quality and Patient Safety Committee; and reviewed the relevant part of the Integrated Performance Report.	The Board noted the updated standards of cleanliness for 2023-2024 would involve increased cost pressure, which would need to be considered within the business planning process.	
		The Board noted the quarterly update on mortality data, which was broadly within the expected ranges for the period in the year.	
		The Board noted the need to progress better care for those at end-of-life and respecting their choices; and that this was an area where system working would need to take the lead.	
		The Board noted that there had been some challenges in the period since the last report; some of which had been affected by strike action. It noted the mitigations and management steps put into place.	
		The Board welcomed the work to prevent and deter violence and aggression against staff.	
CQC Inspection final report	The Board considered the final report and action plan.	The Board received assurance that the immediate actions had been put in place.	
		The Board approved the action plan.	

<b>Issue</b>	<b>Summary</b>	<b>Actions agreed</b>	<b>Additional notes</b>
Every Birth Every Day Board update	The Board received an update on the work being undertaken by the EBED Board.	The Board welcomed that Entonox was now available for patients in the Trust.	
		The Board noted that the Trust had now appointed a new Director of Midwifery, who would be starting shortly.	
		The Board noted the Rapid Quality Review, which had been convened in response to some staff concerns that had been shared externally. These had not covered anything that the Trust had not previously been aware of.	
Strategic Projects update	The Board received the quarterly update on projects.	The Board noted progress on the various projects, and that some projects were being delayed owing to external factors.	
		The Board welcomed the positive overall progress being seen across the projects reported.	
Finance and Performance update	The Board received the reports from the Performance Assurance Committee, and the related parts of the Integrated Performance Report.	The Board noted the performance challenges, particularly regarding ensuring no patient waited longer than 78 weeks for first substantive treatment, which would be affected by further industrial action.	
		The Board welcomed the continuing positive financial delivery for 2022-2023.	
		The Board noted the work to develop the financial plan 2023-2024, which was continuing to be challenging; and the intention to achieve a break-even plan for the year. The Board also noted the potential external factors influencing the process.	The final plan would be considered by the Board at the end of March 2023.

<b>Issue</b>	<b>Summary</b>	<b>Actions agreed</b>	<b>Additional notes</b>
People and Organisational Development	The Committee received the report from the People and Organisational Development Committee, and the relevant parts of the Integrated Performance Report	The Committee noted the items drawn to its attention by the Committee.	
		The Board welcomed the work, related to anchor organisation, being undertaken to encourage employment from more deprived areas.	
Freedom to Speak Up annual report	The Freedom to Speak Up Guardian attended to present their annual report.	The Board agreed the recommendations made in the report, for implementation by September 2023.	
		The Board noted the need to ensure that the culture of the Trust supported and promoted speaking up in appropriate circumstances.	
		The Board noted that feedback from the reverse mentoring and Talk to Transform work would be presented to the Board in due course.	